

रजिस्टर्ड नं० पी० ४६१



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, ६ अप्रैल, १९७०/१६ चैत्र, १८६२

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 25th March, 1970

No. 6-47/68-LR.—The Himachal Pradesh Habitual Offenders Bill, 1969 (Bill No. 14 of 1969) after having received the assent of the President on the 19th February, 1970, under sub-section (2) of section 25 of the

Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 8 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 8 of 1970

THE HIMACHAL PRADESH HABITUAL OFFENDERS ACT, 1969

AN

ACT

to make better provision for the treatment and training of habitual offenders, and for certain other matters.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Habitual Offenders Act, 1969.

Short title, extent and commencement.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force at once.

Definitions.

2. (1) In this Act, unless the context otherwise requires:—

(a) 'Code' means the Code of Criminal Procedure, 1898;

(b) 'corrective settlement' means any place established, approved or certified as a corrective settlement under section 14;

(c) 'District Magistrate' means a District Magistrate appointed under section 10 of the Code;

(d) 'habitual offender' means any person who since his attaining the age of eighteen years,—

(i) during any consecutive period (whether before or after the commencement of this Act, or partly before and partly after such commencement) of five years, has been sentenced on conviction, on not less than three occasions, to a substantive term of imprisonment for one or more of the scheduled offences committed on separate occasions, being offences which are not so connected together as to form parts of the same transaction; and

(ii) such sentence has not been reversed in appeal or revision:

Provided that in computing the consecutive period of five years aforesaid, any period spent in jail either under a sentence of imprisonment or under detention shall not be taken into account;

(e) 'Government' means the Government of Himachal Pradesh;

(f) 'notification' means a notification published in the Official Gazette, under the proper authority;

(g) 'Official Gazette' means the Himachal Pradesh Rajpatra;

(h) 'prescribed' means prescribed by rules made under this Act;

(i) 'registered offender' means a habitual offender registered or re-registered under this Act;

(j) 'scheduled offence' means an offence specified in the Schedule or an offence analogous thereto;

(k) 'Superintendent of Police' means the Superintendent of Police and

includes any person appointed by the Government to perform the duties of a Superintendent of Police under this Act.

(2) Words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

CHAPTER II

REGISTRATION OF HABITUAL OFFENDERS AND RESTRICTION OF THEIR MOVEMENTS

Power of Government to direct registration of habitual offenders.

3. The Government may direct the District Magistrate to make or cause to be made a register of habitual offenders within his district, by entering therein the names and other prescribed particulars of such offenders.

Procedure for preparing a register of habitual offenders.

4. For the purpose of carrying out the direction given under section 3, the District Magistrate or any officer appointed by him in this behalf shall, by notice in the prescribed form to be served in the prescribed manner, call upon every habitual offender in the district;

(a) to appear before him at a time and place specified in the notice;

(b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of the habitual offender in the register; and

(c) to allow the finger and palm impressions, footprints and photographs of the habitual offender to be taken:

Provided that the name and other prescribed particulars of a habitual offender shall not be entered in the register, unless he has been given reasonable opportunity of showing cause why such entry should not be made.

Charge of Register and alterations therein.

5. (1) The register shall be placed in the keeping of the Superintendent of Police of the district who shall, from time to time, report to the District Magistrate, any alterations which ought, in his opinion, to be made therein.

(2) After the register has been placed in the keeping of the Superintendent of Police, no fresh entry shall be made in the register, nor shall any entry be cancelled, except by or under, an order in writing of the District Magistrate.

Powers to take finger and palm impressions, footprints and photographs at any time.

6. The District Magistrate or any officer appointed by him in this behalf, may at any time order the finger and palm impressions, footprints and photographs, of any registered offender to be taken.

Registered offenders to notify change of residence and to report themselves.

7. (1) Every registered offender shall notify to such authority, and in such manner, as may be prescribed, any change or intended change of his ordinary residence:

Provided that where such offender changes, or intends to change, his ordinary residence to another district (whether within the Union territory of Himachal Pradesh or not) he shall notify the change or intended change to the District Magistrate.

(2) The District Magistrate may, by order in writing, direct that any registered offender shall,—

(a) report himself once in each month, or where the District Magistrate

for reasons specified in the order so directs, more frequently to such authority, and in such manner, as may be specified in the order; and

- (b) notify any absence or intended absence from his ordinary residence to the aforesaid authority:

Provided that the District Magistrate may exempt any such offender from notifying any absence or intended absence from his ordinary residence for such period, and under such conditions, as appear to him reasonable.

8. (1) Where any registered offender changes his ordinary residence to another district within the Union territory of Himachal Pradesh, the District Magistrate of the district in which the offender is registered shall inform the District Magistrate of the other district of such change, and at the same time furnish him with the name and other particulars relating to the registered offender in the register.

(2) On the receipt of such information, the District Magistrate of the other district shall enter in his register the name and other particulars of the registered offender furnished to him, and inform the District Magistrate of the first district of such registration, and thereupon such District Magistrate shall cancel from his register the entry relating to that offender:

Provided that where a registered offender changes his ordinary residence to another district outside the Union territory of Himachal Pradesh the District Magistrate of the first district shall, while furnishing the District Magistrate of the other district with the name and other particulars of the registered offender make a request to that District Magistrate that he may be informed of the steps, if any, which may have been taken in relation to the offender under any law for the time being in force in that other district; and upon the receipt of such information the District Magistrate of the first district shall cancel from register the entry relating to that offender.

(3) Upon the entry of the name and other particulars of a registered offender in any register in Union territory of Himachal Pradesh under sub-section (2), the provisions of this Act and the rules made thereunder shall apply to him as if he has been registered, in pursuance of a direction given under section 3, in the register of the district to which he has changed his ordinary residence.

9. (1) Subject to the provisions of sub-section (3), the registration of a habitual offender under this Act shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such registration, and on such cancellation or expiry the habitual offender shall cease to be a registered offender.

(2) Notwithstanding the cancellation, or expiry of duration of registration, a habitual offender may be re-registered in accordance with the provisions of this Act relating to registration, as often as he is convicted of one or more of the scheduled offences at any time after such cancellation, or expiry; and subject to the provisions of sub-section (3), the re-registration shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such re-registration.

(3) Where a registered offender is, during the period of registration or re-registration, convicted of one or more of the scheduled offences and sentenced to a substantive term of imprisonment, the duration of registration or re-registration shall be extended for a period of five years from the date of his release from such imprisonment.

Procedure by District Magistrate on change of residence of habitual offender to other district.

Duration registration and re-registration of habitual offenders.

Right to make re-presentations against re-registration etc.

10. (1) Any person aggrieved by the registration or re-registration of his name under section 4, or as the case may be, section 9 or by an order under sub-section (2) of section 7, may within the prescribed period make a re-presentation to the Commissioner against such registration, re-registration or orders.

(2) The Commissioner shall, after considering the representation, and giving the aggrieved person an opportunity of being heard, either confirm or cancel the registration, re-registration or order, as the case may be, and shall in the case of confirmation record, a brief statement of the reasons therefor.

Power to restrict movements of registered offenders.

11. (1) If in the opinion of the Government it is necessary or expedient in the interests of the general public so to do, the Government may, subject to the provisions of sub-section (4), by order direct that any registered offender shall be restricted in his movements to such area, and for such period not exceeding three years as may be specified in the order.

(2) Before making any such order the Government shall take into consideration the following matters, that is to say,—

(a) the nature of the offences of which the registered offender has been convicted and the circumstances in which the offences were committed;

(b) whether the registered offender follows any lawful occupation, and whether such occupation is conducive to an honest and settled way of life and is not merely a pretence for the purpose of facilitating the commission of crime;

(c) the suitability of the area to which his movements are to be restricted; and

(d) the manner in which the registered offender may earn his living within the restricted area and the adequacy of arrangements which are or are likely to be, available therefor.

(3) A copy of the order shall be served on the registered offender in the prescribed manner.

(4) The period specified in an order under sub-section (1) shall in no case extend beyond the period of registration or re-registration, as the case may be, referred to in section 9.

Power to cancel or alter restrictions of movements.

12. The Government may, by order, cancel any order made under section 11, or alter any area specified in an order under that section:

Provided that before making such order, the Government shall consider the matters referred to in sub-section (2) of section 11 in so far as they may be applicable.

Powers under sections 11 and 12 also exercisable by certain Magistrates.

13. (1) Subject to the provisions of sub-sections (3), the powers of the Government under sections 11 and 12 may be exercised also by a Magistrate having power to act under section 110 of the Code, but without prejudice to the exercise of his powers under that section of the Code.

(2) A Magistrate acting under section 11 or 12 shall follow, as nearly as may be, the procedure laid down in sections 112, 113, 114, 115 and 117 of the Code for an order requiring security for good behaviour:

Provided that the order in writing referred to in section 112 of the Code shall, in addition to setting forth the substance of the information received, state the term, not exceeding three years, during which the order of restriction shall be in force.

(3) Where the Government has already made an order under section 11 in respect of a habitual offender, the Magistrate shall not exercise any powers conferred by this section in respect of the same habitual offender, during any period in which the order of the Government is in force.

CHAPTER III

CORRECTIVE TRAINING OF HABITUAL OFFENDERS

14. (1) For the purpose of placing therein such habitual offenders as are directed to receive corrective training under this Act, the Government may, by notification in the Official Gazette, establish and maintain in the Union territory of Himachal Pradesh as many corrective settlements as it thinks fit.

Establishment of corrective settlements.

(2) The Government may also approve or certify any privately managed institution (whether known as a settlement or otherwise) as a corrective settlement for the purposes of this Act.

15. (1) Where the Government is satisfied from the report of the District Magistrate or otherwise that it is expedient with a view to the reformation of a registered offender and the prevention of crime, that the registered offender should receive training of a corrective character for a substantial period, the Government may by order in writing direct that the registered offender shall receive training of a corrective character for such period not exceeding the duration of his registration or re-registration as may be specified in the order.

Power to direct habitual offenders to receive corrective training.

(2) Where a habitual offender, who is not more than forty years of age,—

(a) is convicted of any offence punishable with imprisonment, or

(b) is required in pursuance of section 110 of the Code to execute a bond for his good behaviour, and the court or the Magistrate is satisfied from the evidence in the case and other materials on record that it is expedient with a view to his reformation and the prevention of crime, that he should receive training of a corrective character for substantial period, the court or the Magistrate may, in lieu of sentencing him for such offence or, as the case may be, requiring him to execute such bond, direct that he shall receive corrective training for such term of not less than two or more than five years, as the court or the Magistrate may determine.

(3) Before giving any direction under sub-section (1) or sub-section (2) the Government, the court or the Magistrate, as the case may be, shall,—

(a) consult the officer prescribed on the capacity of the corrective settlements to receive the habitual offender;

(b) take into consideration the physical and mental condition of the offender, and the suitability for receiving corrective training in a corrective settlement; and

(c) give a reasonable opportunity to the offender to show cause why such direction should not be given.

(4) A habitual offender, in respect of whom a direction to receive corrective training has been made, shall be placed in a corrective settlement for the term of his training, and while in such settlement shall be treated in such manner and receive such training as may be prescribed.

16. The Government or any officer authorised by it in this behalf, may at any time by order in writing direct any habitual offender who may be in a corrective settlement to be transferred to another corrective settlement to be discharged therefrom, and accordingly he shall be so transferred or, as the case may be, discharged.

Power to transfer or discharge from corrective settlement.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalty for failure to comply with certain provisions of the Act.

17. A habitual offender who without lawful excuse, the burden of proving which shall lie upon him—

- (a) fails to appear in compliance with a notice issued under section 4; or
- (b) intentionally omits to furnish any information required under that section or furnishes as true any information which he knows, or has reasons to believe, to be false or does not believe to be true; or
- (c) refuses to allow his finger and palm impression, footprints and photographs to be taken by any person acting under an order passed under section 6; or
- (d) fails to comply with the provision of sub-section (1) of section 7 or with an order of the District Magistrate under sub-section (2) thereof or with an order under section 11;

may be arrested without warrant, and shall be punished,—

- (i) on first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both, and
- (ii) on a second or subsequent conviction, with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees, or with both:

Provided that, if the Court, after taking into consideration the offender's age and physical and mental condition and his suitability for receiving training of a corrective character in a corrective settlement, is satisfied that it is expedient with a view to his reformation and the prevention of crime, that he should receive training of a corrective character for a substantial period the court may, in lieu of sentencing the offender to any punishment under this section, direct, after giving him an opportunity of showing cause (and after consulting the officer prescribed on the capacity of the corrective settlements to receive him) that he shall receive corrective training in a corrective settlement for such term not exceeding three years, as it may determine.

Arrest of persons found outside restriction area or corrective settlement.

18. If any person,—

- (a) is found outside the area to which his movements have been restricted in contravention of the conditions under which he is permitted to leave such area; or
- (b) escapes from any corrective settlement in which he is placed, he may be arrested without warrant by a police officer and taken before a Magistrate who on proof of the facts, may order him to be removed to such area or to such corrective settlement, there to be dealt with in accordance with this Act and rules made thereunder.

Enhanced punishment for certain previously convicted persons.

19. (1) Whoever, being a person in respect of whom a direction has been made under section 11 or section 15, and having been convicted of any of the scheduled offences falling under Part I of the schedule, is convicted of the same or of any other scheduled offence falling in that part shall, on conviction, be punished with imprisonment for life or with imprisonment for a term which may extend to ten years.

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code, or any other law.

20. Whoever, being a person in respect of whom a direction has been made under section 11 or section 15, is found in any place under such circumstances as to satisfy the court,—

- (a) that he was about to commit, or aid in the commission of, theft or robbery, or
- (b) that he was making preparation for committing theft or robbery, shall, on conviction, be punished with imprisonment for a term which may extend to three years, and shall also be liable to a fine which may extend to one thousand rupees.

Punishment for certain registered offenders found under suspicious circumstances.

CHAPTER V

MISCELLANEOUS

21. No court shall question the validity of any direction or order issued under this Act.

Bar of jurisdiction.

22. No court shall question the competence of any authority making or issuing any notification, order or direction under this Act.

Bar of legal proceedings.

23. The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act except the power under section 24 may also be exercised subject to such conditions, if any, as may be specified in the notification, by such officer not below the rank of a District Magistrate as may be specified therein.

Power to delegate.

24. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of notice under section 4 and the manner in which such notice may be served;
- (b) the form of the register of habitual offenders and the particulars to be entered therein;
- (c) the authority to whom and the manner in which any change or intended change of ordinary residence shall be notified under sub-section (1) of section 7;
- (d) the nature of restrictions to be observed by registered offenders whose movements have been restricted;
- (e) the grant of certificate of identity to registered offenders and inspection of such certificates;
- (f) the conditions under which the offenders may be permitted to leave the area to which their movements have been restricted or the corrective settlement in which they have been placed;
- (g) the terms upon which offenders may be discharged from corrective settlements;
- (h) the working, management, control and supervision of corrective settlements including the discipline and conduct of persons placed therein;
- (i) the conditions for, and the manner of, approving of certifying privately managed settlements;
- (j) the appointment of non-official visitors for corrective settlements;
- (k) the conditions and circumstances under which members of the family of a habitual offender may be permitted to stay with him in a corrective settlement;
- (l) the periodical review of the cases of all persons whose movements

have been restricted or who are placed in corrective settlements under this Act; and

(m) any other matter which is to be or may be prescribed under this Act.

(3) In making rules under this Act, the Government may provide that a contravention of any of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, nowever, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Corresponding provisions under any law for the time being in force.

25. Nothing in this Act shall affect the powers of any competent authority under any other law for the time being in force to make an order of restriction or detention, and any order passed or direction made under this Act in so far as it conflicts with any order made by a competent authority under such law shall be deemed to be inoperative while the order under such law remains in force.

Repeal and Savings.

26. The Punjab Habitual Offenders (Control and Reform) Act, 1952 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the Bombay Habitual Offenders Act, 1959 as extended to areas comprised in Himachal Pradesh immediately before 1st November, 1966, are hereby repealed:

12 of 1952

31 of 1966

61 of 1959

Provided that any order made, notification or direction issued, appointment made or action taken in exercise of the powers conferred by or under the Acts hereby repealed, shall be deemed to have been made, issued, done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 2(j)]

I

Offences under the Indian Penal Code

CHAPTER XII

SECTIONS:

231. Counterfeiting coin.
232. Counterfeiting Indian coin.
233. Making or selling instrument for counterfeiting coin.
234. Making or selling instrument for counterfeiting Indian coin.
235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.
239. Delivery of coin possessed with knowledge that it is counterfeit.
240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.
242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.
243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

CHAPTER XVI

304. Culpable homicide not amounting to murder.
307. Attempt to murder.
308. Attempt to commit culpable homicide.
311. Being a thug.
324. Voluntarily causing hurt by dangerous weapons or means.
325. Voluntarily causing grievous hurt.
326. Voluntarily causing grievous hurt by dangerous weapons or means.
327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.
328. Causing hurt by means of poison etc. with intent to commit an offence.
329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
332. Voluntarily causing hurt to deter public servant from his duty.
333. Voluntarily causing grievous hurt to deter public servant from his duty.
347. Wrongful confinement to extort property, or constrain to illegal act.
365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366A. Procuration of minor girl.
- 366B. Importation of girl from foreign country.
368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.
369. Kidnapping or abducting child under ten years with intent to steal from its person.

CHAPTER XVII

379. Theft.
380. Theft in dwelling house, etc.
382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.
384. Extortion.
385. Putting person in fear of injury in order to commit extortion.
386. Extortion by putting a person in fear of death or grievous hurt.
387. Putting person in fear of death or of grievous hurt, in order to commit extortion.
392. Robbery.
393. Attempt to commit robbery.
394. Voluntarily causing hurt in committing robbery.
395. Dacoity.
397. Robbery or dacoity, with attempt to cause death or grievous hurt.
398. Attempt to commit robbery or dacoity when armed with deadly weapon.
399. Making preparation to commit dacoity.
400. Belonging to a gang of dacoits.
401. Belonging to a gang of thieves.
402. Assembling for purpose of committing dacoity.
411. Dishonestly receiving stolen property.
414. Assisting in concealment of stolen property.
451. House-trespass in order to commit offence punishable with imprisonment.
452. House-trespass after preparation for hurt, assault or wrongful restraint.
453. Lurking house-trespass or house-breaking.

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.
455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.
456. Lurking house-trespass or house-breaking by night.
457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.
458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.
459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460. All persons jointly concerned in lurking house-trespass, or house-breaking by night punishable where death or grievous hurt caused by one of them.

II

Offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956.

Section 4—Living on the earnings of prostitution.

III

An offence under section 3 of the Public Gambling Act, 1867 (Act III of 1867).

IV

Any offence under the Essential Commodities Act, 1955, and rules and orders framed and issued thereunder.

Simla-2, the 25th March, 1970

No. 6-103/68-LR.—The Himachal Pradesh Agricultural Produce Markets Bill, 1969 (Bill No. 1 of 1969) after having received the assent of the President on the 3rd March, 1970 under sub-section(2) of Section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 9 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

THE HIMACHAL PRADESH AGRICULTURAL PRODUCE MARKETS ACT, 1969

AN ACT

to consolidate and amend the law relating to the better regulation of the purchase, sale, storage and processing of agricultural produce and the establishment of markets for agricultural produce in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Agricultural Produce Markets Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Short title,
extent and
commence-
ment.

Definitions.

- (a) "Agricultural produce" means all produce whether processed or not, of agriculture, horticulture, animal husbandry or forest as specified in the schedule to this Act;
- (b) "Board" means the Himachal Pradesh Marketing Board constituted under section 3;
- (c) "broker" means an agent who in consideration of a commission, fee or reward merely negotiates and brings about a contract for the purchase or sale of notified agricultural produce on behalf of his principal but does not receive, deliver, transport, pay for the purchase of, or collect the payment for the sale of the notified agricultural produce;
- (d) "committee" means a market committee established and constituted under sections 9 and 10;
- (e) "Director" means the Director of Agriculture for Himachal Pradesh and includes any officer appointed by the State Government to perform all or any of the functions of the Director under this Act;
- (f) "godown-keeper" means a person, other than a producer, who stores agricultural produce for himself for sale or stores agricultural produce of others in lieu of storage charges;
- (g) "market" means a market established and regulated under this Act for the notified market area and includes a market proper, a principal market yard and sub-market yard;
- (h) "producer" means a person who, in his normal course of avocation, grows, manufactures, rears or produces, as the case may be, agricultural produce personally, through tenants or otherwise, but does not include a person who works as a dealer or a broker or who is a partner of a firm of dealers or brokers or is otherwise engaged in the business of disposal or storage of agricultural produce other than that grown, manufactured, reared, or produced by himself, through his tenants or otherwise. If a question arises as to whether any person is a producer or not for the purposes of this Act, the decision of the Deputy Commissioner of the district in which the person carries on his business or profession shall be final:

Provided that no person shall be disqualified from being a producer merely on the ground that he is a member of a co-operative society;

Explanation.—The term 'producer' shall also include tenant.

- (i) "dealer" means any person who, within the notified market area, sets up, establishes or continues or allows to be continued any place for the purchase, sale, storage or processing of agricultural produce notified under sub-section (1) of section 4 or purchases, sells, stores or processes such agricultural produce;
- (j) "market proper" means any area including all lands with the buildings thereon, within such distance of the principal market or sub-market yard, as may be notified in the Official Gazette by the State Government to be a market proper;
- (k) "co-operative society" means a co-operative society of producers registered under the provisions of the Co-operative Societies Act for the time being in force, which deals in the purchase, sale, processing or storage of agricultural produce, or is otherwise engaged in the business of disposal of agricultural produce;
- (l) "State Government" or "Government" means the Government of Himachal Pradesh;
- (m) "notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh;
- (n) "notified market area" means any area notified under section 4;
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "principal market yard" and "sub-market yard" mean an enclosure, building, locality or other area declared to be a principal market yard and sub-market yard under section 5;
- (q) "trade allowance" includes an allowance having the sanction of custom in the notified market area concerned and market charges payable to various functionaries;
- (r) "retail sale" means sale of agricultural produce not exceeding such quantity as may be prescribed;
- (s) "Secretary" means the executive officer of a committee and includes an Assistant Secretary or a person officiating or acting as Secretary; and
- (t) "Marketing Officer" means the Marketing Officer for Himachal Pradesh in the Department of Agriculture.

Himachal
Pradesh
Marketing
Board.

3. (1) The State Government may, for exercising the powers conferred on, and performing the functions and duties assigned to, the Board by or under this Act, establish and constitute a Himachal Pradesh Marketing Board consisting of 15 members of whom 5 shall be officials and 10 non-officials to be nominated by the State Government in the following manner:—

- (a) the official members shall include the Director, the Marketing Officer and 3 other officials as nominated by the State Government;
- (b) of the non-official members,—
 - (i) two shall be producer members of the committees;
 - (ii) four shall be other progressive producers of Himachal Pradesh;
 - (iii) three shall be from among such persons licenced under section 8 who are members of the committees;
 - (iv) one representing co-operative societies.
- (2) The Director and the Marketing Officer shall respectively be the *ex-officio* Chairman and the Secretary of the Board.
- (3) The Board shall be a body corporate as well as local authority by the name of the Himachal Pradesh Marketing Board, having perpetual

succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property and shall, by the said name, sue and be sued.

(4) The term of the office of the non-official members of the Board shall be three years.

(5) No person shall be eligible to become a member of the Board who,—

- (a) does not ordinarily reside within Himachal Pradesh;
- (b) is below 25 years of age;
- (c) has been removed under sub-section (7) of section 13;
- (d) is of unsound mind; or
- (e) has been declared as insolvent or sentenced by a criminal court, whether within or outside Himachal Pradesh for an offence involving moral turpitude:

Provided that the disqualification under clause (e) on the ground of a sentence by a criminal court shall not apply after the expiry of four years from the date on which the sentence of such person has expired.

(6) A member of the Board may resign from membership by tendering his resignation to the State Government through the Chairman of the Board and the seat of such member shall become vacant on the date of acceptance of his resignation.

(7) The State Government may remove any non-official member of the Board who has become subject to any of the disqualifications specified in sub-section (5) or who is, in its opinion, unfit to act as a member or remiss in the discharge of his duties or whose continuance as a member of the Board is considered to be prejudicial to its interest and may appoint another member in his place in the manner as prescribed in sub-section (1), from the category to which the removed member belongs:

Provided that before removing a member, the reasons for the proposed action shall be conveyed to him and his reply invited within a specified period and duly considered:

Provided further that the term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had the latter held office for the full period allowed under sub-section (4).

(8) Four members shall constitute a quorum at a meeting of the Board. All questions that may come up before a meeting of the Board shall be determined by a majority of votes of the members present and voting and in case of equality of votes, the Chairman may exercise a casting vote:

Provided that if a meeting is adjourned for want of quorum, no quorum shall be necessary at the next meeting called for transacting the same business.

(9) (a) An estimate of the annual income and expenditure of the Board for the ensuing year shall be prepared by the Board and submitted for sanction to the Government not later than the first week of February each year. On the sanction of the budget by the Government, the Board shall have power to operate upon it.

(b) The State Government shall sanction and return the budget within two months from the date of the receipt thereof. If it is not received within two months it shall be presumed to have been sanctioned.

(10) Subject to the provisions of this Act and the rules and bye-laws made thereunder, the Board may employ such persons for the performance of the functions of the Board under this Act, and may give them such remuneration, as it may think fit, and may suspend, remove, dismiss or otherwise punish any person so employed.

(11) The Chairman of the Board and its Secretary shall have the same powers as are respectively conferred under the financial rules of the Central Government on the Head of Department and Head of Office and exercise such other powers and discharge such other duties as may be prescribed.

(12) The State Government shall exercise superintendence and control over the Board and its officers and may call for such information as it may deem necessary and, in the event of its being convinced that the Board is not functioning properly, or is abusing its powers or is guilty of corruption or mis-management, it may suspend the Board and, till such time as a new Board is constituted, make such arrangement for the exercise of the functions of the Board as it may think fit.

(13) The Board shall exercise superintendence and control over all market committees established and constituted under this Act.

(14) The Chairman of the Board may, on administrative grounds, transfer employees of one market committee to another, and of a market committee to the Board and *vice-versa*.

(15) The Board may delegate any of its powers to the Chairman, Secretary, or officers of the Board.

(16) The Board or the Chairman of the Board or its Secretary or any other officer authorised by the Board shall have the power to call for any information, records or returns relating to agricultural produce from a market committee or a dealer or other functionaries and shall also have the power to inspect the accounts of a market committee or a dealer or other functionaries and in case any irregularity comes to its or his notice shall have the power to suspend or cancel the licence of any licensee.

(17) The State Government may delegate to the Board or its Chairman any of the powers conferred on it by or under this Act.

(18) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

(19) The Board may, with the prior approval of State Government, by notification, declare its intention of exercising control over the purchase, sale, storage and processing of such agricultural produce, and in such area as may be specified in the notification. Such notification shall state that any objections or suggestions which may be received by the Board within a period to be specified in the notification, will be considered:

Provided that such period shall not be less than one month.

Declaration
of notified
market
area.

4. (1) After the expiry of the period specified in the notification under section 3 (19) and after considering such objections and suggestions as may be received before the expiry of the specified period, the Board may, by notification and in any other manner that may be prescribed, declare the area notified under section 3 or any portion thereof to be notified market area for the purposes of this Act in respect of the agricultural produce notified under section 3 or any part thereof.

(2) The Board, if satisfied that in any notified market area, a committee is not functioning or two such areas or a part of any such areas is to be amalgamated with another such areas or is to be constituted into a separate notified market area may, by notification, denotify any market area notified under sub-section (1) or any part thereof and, when the whole of such area is denotified, cancel a committee and transfer all the assets of that committee which remain after satisfaction of all its liabilities to the Board. Such assets shall be utilised by the Board for such objects in the area as it may consider to be for the benefit of the producers of that area:

Provided that the liabilities of the Board shall not extend beyond the assets so vested.

(3) After the date of issue of such notification or from such later date as may be specified therein, no person, unless exempted by rules framed under this Act, shall, either for himself or on behalf of another person, or of the Government within the notified market area, set up, establish or continue or allow to be set up, established or continued any place for the purchase, sale, storage and processing of the agricultural produce so notified, or purchase, sell, store or process such agricultural produce except under a licence granted in accordance with the provisions of this Act, the rules and bye-laws made thereunder and the conditions specified in the licence:

Provided that a licence shall not be required by a producer who sells himself or through a bonafide agent, not being a commission agent, his own agricultural produce or the agricultural produce of his tenants on their behalf or by a person who purchases any agricultural produce for his private use.

(4) For the removal of doubts, it is hereby declared that a notification published in the Official Gazette under this section or section 3 shall have full force and effect notwithstanding any omission to publish or any irregularity or defect in the publication of a notification under this section or under section 3, as the case may be.

5. (1) For each notified market area, there shall be one principal market yard and one or more sub-market yards as may be necessary.

Declaration of market yards.

(2) The Board may, with the prior approval of State Government, by notification, declare any enclosure, building, locality or other area in any notified market area to be principal market yard for the area and other enclosures, buildings, localities or other areas to be one or more sub-market yards for the notified market area.

6. On and after the date on which the Board has, by a notification under section 5, declared any place to be a principal or sub-market yard no person or municipal committee, district board, panchayat or any local authority, notwithstanding anything contained in any enactment relating to such municipal committee, district board, panchayat or local authority shall be competent to set up, establish or continue or allow to be continued any place within the limits of such market or within a distance thereof to be notified in the Official Gazette in this behalf in each case by the State Government for the purchase, sale, storage and processing of agricultural produce:

No private market to be opened in or near places declared to be markets.

Provided that a producer shall not be deemed to set up, establish or continue or allow to be continued a place as a market for the purpose of the purchase, sale, storage or processing of agricultural produce if he sells

his own agricultural produce outside the premises set apart by the committee for the purpose of purchase, sale, storage and processing of agricultural produce.

Authority to whom applications for grant of licences are to be made.

7. The Secretary of the Board or any officer authorised by the Chairman in writing in this behalf, shall be an authority for granting licences required under section 4(3).

Applications for licences, fees to be paid and cancellation or suspension of licences.

8. (1) Any person may apply to the authority specified in section 7 for a licence which shall be granted for such period, in such form, on such conditions and on payment of such fees not exceeding Rs. 100, as may be prescribed:

Provided that if any person carrying on any business of the nature specified in sub-section (3) of section 4 in a notified market area fails to apply for a licence on or before such date as the Board may, by notification, appoint in respect of that area, the licensing authority may refuse to grant him a licence until after the expiry of such period not exceeding three years as it may think fit:

Provided further that the Board may, in its discretion, issue a licence to such person and may, before issuing such licence, impose such penalty not exceeding two thousand rupees as it may think fit.

(2) The Board or its Chairman or Secretary or any other officer authorised by the Board may, on being satisfied that there has been a breach of any of the conditions specified in a licence, by an order in writing, cancel or suspend such licence, and may also direct that such licence shall not be renewed for such period not exceeding five months for a first breach and not exceeding nine months for a second breach as may be specified in that order:

Provided that no such order shall be passed without giving the licensee an opportunity to show cause why such an order should not be passed:

Provided further that the Chairman of a committee or its Secretary may, under intimation to the Secretary of the Board, suspend a licence for a period not exceeding 15 days.

(3) The Secretary of the Board may, after such inquiry as he may consider necessary, refuse a licence to a person who in his opinion—

- (a) is a benamidar for or a partner with any person to whom a licence has been refused, or whose licence is cancelled or suspended under sub-section (2), for the period of such cancellation or suspension;
- (b) is convicted of an offence affecting the said person's integrity as a man of business, within two years of such conviction; or
- (c) is undischarged insolvent:

Provided that no such order shall be made without giving such person an opportunity to show cause why such an order should not be made.

Establishment of market committee.

9. The Board shall, by notification, establish a market committee, for every notified market area and shall specify its headquarters.

Constitu-
tion of the
committee.

10. (1) A market committee shall consist of nine or sixteen members as the Board may, in each case, determine.

(2) Of these members, one may be appointed by the Board from amongst the salaried servants of the Government by virtue of his office.

(3) The remaining members shall be appointed by the Board out of a panel of names equal to twice the number of vacancies to be filled in the manner provided hereunder, that is to say—

(a) if the committee is to consist of nine members, there shall be appointed:—

(i) five members from the producers of the notified market area; and

(ii) three members from the persons licensed under section 8 from the notified market area;

(b) if the committee is to consist of sixteen members, there shall be appointed:—

(i) nine members from the producers of the notified market area; and

(ii) six members from the persons licensed under section 8 from the notified market area.

(4) The panel of the names will be given by the Deputy Commissioner concerned.

(5) Whenever any member dies, resigns, ceases to reside in Himachal Pradesh or becomes incapable of acting as a member of the committee, the Board, in its discretion, may, on the submission of another panel, or in default of such panel, appoint another person to be a member in his stead.

(6) No act done by the committee shall be called into question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the committee.

(7) Subject to rules made under this Act, the disqualifications specified in sub-section (5) of section 3 shall also apply for purposes of becoming a member of a committee.

11. (1) It shall be the duty of the market committee and Secretary, market committee—

Duties and
powers of
committees.

(a) to enforce the provisions of this Act and the rules and bye-laws made thereunder in the notified market area and, when so required by the Board, to establish a market therein providing such facilities for persons visiting it in connection with the purchase, sale, storage, weighing, and processing of agricultural produce concerned as the Board or Chairman of the Board may, from time to time, direct;

(b) to control and regulate the admission to the market, to determine the conditions for the use of the market and to prosecute or confiscate the agricultural produce belonging to person trading without a valid licence;

(c) to bring, prosecute or defend or aid in bringing, prosecuting or defending any suit, action, proceeding, application or arbitration, on behalf of the committee or otherwise when directed by the Board or the Chairman of the Board; and

(d) to grade and standardise specified agricultural produce.

(2) Subject to such rules as the State Government may make in this behalf, it shall be the duty of the Secretary, market committee, to issue licences

to brokers, weighmen, measurers, surveyors, godown-keepers and other functionaries for carrying on their occupation in that notified market area in respect of agricultural produce and to renew, suspend or cancel such licences.

(3) No broker, weighman, measurer, surveyor, godown-keeper or other functionary shall, unless duly authorised by a licence, carry on his occupation in a notified market area in respect of the agricultural produce.

(4) Every person licensed under sections 8 and 11 and every person exempted under section 4 from taking out licence, shall on demand by the committee or its Secretary or any person authorised by it in this behalf, furnish such records, information and returns, as may be necessary for the proper enforcement of the Act or the rules and bye-laws made thereunder.

Term of
office of
members.

12. Subject to the provisions of section 15, every member shall hold office for a period of three years from the date of his appointment, and if, when such period expires, no person has been appointed to succeed him, such member shall, unless the Board otherwise directs, continue to hold office until his successor is appointed.

Removal of
members.

13. The Board may, at any time during the period of his office, remove, by notification, any member, if such member has, in its opinion, been guilty of misconduct or neglect of duty or has lost the qualifications on the strength of which he was appointed, provided that before the Board notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned and he shall be given an opportunity of tendering an explanation in writing.

Election of
Chairman
and Vice-
Chairman.

14. (1) Every market committee shall elect from among its members a Chairman and a Vice-Chairman.

(2) The committee may, by a majority of two-third of the total members at a meeting specially convened for the purpose, pass a resolution for the removal of any of the office bearers and any resolution so passed shall be subject to confirmation by the Board.

Filling of
vacancies.

15. (1) If through death, resignation, retirement, transfer or removal, in accordance with the provisions of section 13, any vacancy occurs, the Board may appoint a member to fill such vacancy in accordance with the provisions of section 10:

Provided that the term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had the latter held office for the full period allowed under section 12.

(2) Should the Board decide to raise the number of members of an existing committee from 9 to 16, the additional vacancies shall be filled in accordance with the provisions of sub-section (1) and the term of office of the additional members appointed shall expire with the existing members of the committee.

16. Every market committee shall be a body corporate as well as local authority by such name as the Board may specify in the notification establishing it, shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall, subject to the provisions of section 28, be competent to acquire and hold property both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in, or been acquired by it, and to contract and to do all other things necessary for the purposes for which it is established:

incorporation of committee

Provided that no committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting specially convened for the purpose by a majority of not less than three-fourth of the members of the committee and with the prior approval of the Chairman of the Board.

17. The market committee may appoint two or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or to report on any matter and may delegate to such committee or to any two or more of its members such of its powers or duties as it thinks fit.

Appointment of sub-committee, joint committee and delegation of powers.

18. (1) Every market committee shall have a Secretary deputed by the State Government from amongst the trained Agricultural Inspectors (Marketing) on the recommendation of the Chairman of the Board on such terms and conditions as may be prescribed.

Appointment and salaries of officers and servants of committee.

(2) With the previous approval of the Chairman of the Board, a market committee may employ such officers and servants as may be necessary and proper for the management of the market and may pay such officers and servants salaries as fixed by the Board for different cadres:

Provided that where the basic pay of an employee is less than 50 rupees, the previous approval of the Chairman of the Board for appointment will not be necessary.

(3) Every officer or servant against whom an order of punishment has been made by a committee shall be entitled to appeal to the Board within a period of thirty days from the date of the order appealed against:

Provided that the appellate authority may, for sufficient cause, entertain the appeal, if made after the expiry of the aforesaid period.

(4) In computing the period of thirty days, the period spent for obtaining a copy of the order appealed against shall be excluded and a copy of the order shall be supplied to the person concerned free of cost.

(5) Any person aggrieved by the order of the appellate authority may further appeal to the State Government within a period of thirty days of the date of the appellate order; and the provisions of the proviso to sub-section (3) and sub-section (4) shall apply to such further appeal in the same manner as they apply to an appeal under sub-section (3).

(6) The services of the Secretary or any employee shall be transferable from one market committee to another market committee and from a market committee to the Board and *vice-versa*.

Persons who are public servants within the meaning of section 21 of Indian Penal Code.

19. Every member and officer or servant of the Board and of a market committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Execution of contracts.

20. (1) Every contract entered into by a market committee shall be in writing and shall be signed on behalf of the market committee by the Chairman or if, for any reason he is unable to act, by the Vice-Chairman and two other members of the committee and shall be sealed with the common seal of the committee.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on a market committee.

Levy of fee.

21. The market committee shall levy, on ad valorem basis, fees on agricultural produce bought or sold by licensees in the notified market area at the rate not exceeding one rupee for every one hundred rupees as may be fixed by the Board:

Provided that—

(a) no fee shall be leviable in respect of any transaction in which delivery of the agricultural produce bought or sold is not actually made; and

(b) a fee shall be leviable only on the parties to a transaction in which delivery is actually made.

Octroi not payable on certain agricultural produce.

22. Notwithstanding anything to the contrary contained in the Himachal Pradesh Municipal Act, 1968 the State Government may, by notification, direct that in respect of such agricultural produce, notified under section 4, brought or received within a notified market area as may be specified in the notification, no octroi shall be payable by any person to a municipal committee from such date as may be specified therein.

19 of 1968

Himachal Pradesh Marketing Board Fund.

23. (1) All receipts of the Board shall be credited into a fund to be called the Himachal Pradesh Marketing Board Fund. All expenditure incurred by the Board shall be defrayed out of the said fund which shall be jointly operated upon by the Chairman and the Secretary or any officer authorised by them.

(2) This fund shall be utilised for the following purposes:—

- (i) better marketing of agricultural produce;
- (ii) marketing of agricultural produce on co-operative lines;
- (iii) collection and dissemination of market rates and news;
- (iv) grading and standardisation of agricultural produce;
- (v) general improvement in the markets or their respective notified market area;
- (vi) maintenance of the office of the Board and construction and repair of its office buildings, rest house and staff quarters;
- (vii) giving aid to financially weak committees in the shape of loans and grants;
- (viii) payment of salary, leave allowance, gratuity, compassionate allowance, compensation for injuries or death resulting from accidents while on duty, medical aid, pension or provident fund to the persons employed by the Board and leave and pension contribution to Government servants on deputation;

- (ix) travelling and other allowances to the employees of the Board or its members;
- (x) propaganda, demonstration and publicity in favour of agricultural improvement;
- (xi) production and betterment of agricultural produce;
- (xii) meeting any legal expenses incurred by the Board;
- (xiii) imparting education in marketing or agriculture;
- (xiv) construction of godowns;
- (xv) loans and advances to the employees;
- (xvi) expenses incurred in auditing the accounts of the Board;
- (xvii) with the previous sanction of the State Government, any other purpose which is calculated to promote the general interest of the Board, committees or national or public interest.

24. (1) All moneys received by a market committee shall be paid into a fund to be called the "Market Committee Fund". All expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund, and any surplus remaining after such expenditure has been met, shall be invested in such manner as may be prescribed by rules.

Market
Committee
Fund.

(2) (a) Every market committee shall, out of its fund, pay to the Board, 20 per cent of the moneys received by it on account of the Board office expenses and such other expenses incurred by it in the interest of the marketing committee generally and also pay to the Government the cost of any special or additional staff employed by the Government in consultation with the committee for giving effect to the provisions of this Act in the notified market area.

(b) The Government shall determine the cost of such special or additional staff and shall, where the staff is employed for the purposes of more market committees than one, apportion such cost among the committees concerned in such manner as it thinks fit. Its decision determining the amount payable by any market committee shall be final.

25. Subject to the provisions of section 24, the market committee fund shall be expended for the following purposes:—

Purposes
for which
the market
committee
fund may
be expended.

- (i) the acquisition of a site or sites for the market;
- (ii) the maintenance and improvement of the market;
- (iii) the construction and repair of buildings which are necessary for the purposes of such market and for the health, convenience and safety of the persons using it;
- (iv) the provision and maintenance of standard weights and measures;
- (v) the pay, leave allowances, gratuities, compassionate allowances, and contributions towards leave allowances or provident fund of the persons employed by the market committee;
- (vi) the collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the agricultural produce concerned and propaganda in favour of agricultural improvement;
- (vii) providing comforts and facilities such as shelter, shade, parking accommodation and water for the persons, draught cattle and pack animals coming to the market and similar other purposes;
- (viii) the expenses incurred in auditing the accounts of the committees and expenses incurred in the maintenance of the offices;

- (ix) the payment of interest of loans that may be raised for purposes of the market and the provision of a sinking fund in respect of such loans;
- (x) for the payment of travelling allowance to the members of the market committee and employees of the committee as prescribed;
- (xi) production and betterment of agricultural produce;
- (xii) meeting any legal expenses incurred by the committee;
- (xiii) loans and advances to the employees;
- (xiv) with the previous sanction of the Board, any other purpose which is calculated to promote the general interests of the committee or the notified market area or any other purpose calculated to promote the national interest.

No trade allowance permissible except as prescribed by rules or bye-laws.

26. No trade allowance, other than allowance prescribed by rules or bye-laws made under this Act, shall be paid or received in a notified market area by any person in any transaction in respect of the agricultural produce concerned and no civil court shall, in any suit or proceeding arising out of any such transaction, recognise any trade allowance not so prescribed:

Provided that all market charges shall be paid by the buyers.

Bar of suit in absence of notice.

27. (1) No suit shall be instituted against the Board or a committee or any member or employee thereof or any person acting under the direction of any such body or member or employee for anything done or purporting to be done under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a Board or committee delivered to him or left at its office, and in the case of any such member, employee or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been delivered, or left.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the cause of action.

Power to borrow.

28. (1) The market committee may, with the previous sanction of the Board, raise the money required for carrying on the purposes for which it is established on the security of any property vested in and belonging to the market committee and of any fees leviable by the market committee under this Act.

(2) The market committee may, for the purpose of meeting the initial expenditure on lands, buildings, and equipment required for establishing the market, obtain a loan from the Government on such conditions and subject to such rules as may be prescribed.

(3) A committee may, with the previous approval of the Chairman of the Board, obtain loans from other committees on such conditions, and subject to such rules, as may be prescribed.

Acquisition of land for the Board and committees.

29. (1) When any land is required for the purposes of this Act, the State Government may, on the request of the Board or a committee requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and on payment by the Board or committee of the compensation awarded under that Act and of all other charges incurred by the State Government on account of the acquisition, the land shall vest in the Board or committee.

(2) The Board or a committee shall be deemed to be a local authority for the purposes of the Land Acquisition Act, 1894.

30. (1) If, in the opinion of the Board, a market committee is incompetent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or abuses its powers, the Board may, by notification, supersede such committee:

Supersession of market committees.

Provided that before issuing a notification under this sub-section, the Board shall give a reasonable opportunity to the market committee for showing cause against the proposed supersession and shall consider the explanations and objections, if any, of the market committee.

(2) Upon the publication of the notification under sub-section (1) superseding a market committee, the following consequences shall ensue:—

- (a) all the members including Chairman and Vice-Chairman of the market committee shall, as from the date of such publication, be deemed to have ceased to be members of the committee;
- (b) all the assets of the committee shall vest in the Board and it shall be liable for all the legal liabilities of the committee subsisting at the date of its supersession upto the limit of the said assets;
- (c) the Board may, at its discretion, by order, constitute either a new committee as provided under section 10 or such other authority for the carrying out of the functions of the committee as the Board may deem fit.

(3) (a) When the Board, has made an order under clause (c) of sub-section (2), the assets and liabilities defined in sub-section (2) (b) vesting in the Board at the date of such order shall be deemed to have been transferred on the date of such order to the new committee or authority constituted as aforesaid.

(b) (i) Where the Board by order under clause (c) of sub-section (2), has appointed an authority other than a new committee for the carrying out of the functions of the superseded committee, the Board may, by notification, determine the period for which such an authority shall act. Such period shall not be longer than three years:

Provided that the term of office of such authority may be terminated earlier if the Board for any reason considers it necessary.

(ii) On the expiry of the term of office of such authority, a new committee shall be constituted.

(iii) Upon such an order being made, the assets and liabilities vesting in the authority thereby superseded, shall be deemed to have been transferred by such order to the new committee.

(4) Whenever the assets of a committee vest in the Board and no new committee or authority is appointed in its place, the Board shall employ the balance of the assets remaining after the discharge of the subsisting legal liabilities of the said committee for any object of public utility in the area specified in the notification issued under section 3.

31. If at any time the State Government is satisfied that a situation has arisen in which the purposes of this Act cannot be carried out in accordance with the provisions thereof, it may, by notification,—

Emergency power.

- (a) declare that the functions of the market committee shall, to such extent as may be specified in the notification, be exercised by the

Board or such person or persons as the State Government may direct;

- (b) assume to itself all or any of powers vested in, or exercisable by, a committee; and such notification may contain such incidental and consequential provisions as may appear to the State Government to be necessary or desirable for giving effect to the objects of the notification.

Penalties.

32. (1) Any person who contravenes any of the provisions of section 4 or section 6 or section 26 or the rules or bye-laws made thereunder shall, on conviction, be punishable with simple imprisonment which may extend to 90 days, or with fine which shall not be less than fifty rupees but may extend to five hundred rupees, or with both, and in the case of a continuing contravention, with a fine which, in addition to such fine as aforesaid, may extend to thirty rupees for every day after the date of first conviction during which the contravention is continued.

(2) Any person who contravenes any of the provisions of this Act or the rules or bye-laws made thereunder, except the provisions of section 4 or section 6 or section 26, shall be punishable with fine which may extend to Rs. 200 and in the cases of continuing contravention, with a further fine of Rs. 20 for every day subsequent to the date of first conviction for which the contravention has continued.

Power to make rules.

33. (1) The State Government may, make rules, consistent with this Act, for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (i) the appointment of members of the Board and market committees;
- (ii) the powers to be exercised and the duties to be performed by the market committee or the Board, their officers and servants;
- (iii) the election of the Chairman and Vice-Chairman of market committee, their powers and term of office;
- (iv) the filling of casual vacancies in the office of members or in the office of Chairman or Vice-Chairman of the market committee;
- (v) the time, place and manner in which a contract between buyer and seller is to be entered into and the money is to be paid to the seller;
- (vi) generally for the guidance of the market committees;
- (vii) management of the market, maximum fees which may be levied by the Board in respect of the agricultural produce bought or sold by licensees in any notified market area and the recovery and disposal of such fees;
- (viii) the issue by a market committee of licences to brokers, weighmen, measurers, surveyors and godown-keepers or other functionaries, the form in which, and the conditions under which, such licences shall be issued or renewed and the fees, if any, to be charged therefor;
- (ix) the place or places at which the agricultural produce shall be weighed, the kind and description of the scales, weights and measures which alone may be used in transactions in agricultural produce in a notified market area;
- (x) the inspection, verification, regulation, correction and confiscation of scales, weights and measures in use in a notified market area;
- (xi) the trade allowances which may be made or received by any person in any transaction in an agricultural produce in a notified market area;

- (xii) the provision of facilities for the settlement, by arbitration, or otherwise, of any dispute between a buyer and a seller of agricultural produce of their agents including disputes regarding the quality or weight of the article, the price or rate to be paid, allowances for wrapping, dirt or impurities or deductions for any cause;
- (xiii) the prohibition of brokers from acting in the same transaction on behalf of both the buyer and the seller of agricultural produce;
- (xiv) the provision of accommodation for storing any agricultural produce brought into the market;
- (xv) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of a market committee or the Board and the grant of sanction to such plans and estimates;
- (xvi) the form in which the accounts of a market committee shall be kept, the audit and publication of such accounts, and the charges, if any, to be made for such audit;
- (xvii) the management and regulation of provident funds which may be established by market committee or Board for the benefit of its employees;
- (xviii) the preparation and submission for sanction of an annual budget and the reports and returns to be furnished by the Board or market committees;
- (xix) the investment and disposal of the surplus funds of the Board or market committees;
- (xx) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in any market;
- (xxi) determining the scale of fees payable for the issue or renewal of licences and for prescribing the form of a licence and the conditions under which a licence shall be issued to dealers;
- (xxii) fixing the maximum annual fees which may be levied by the market committee in respect of licences granted and maximum fees which may be levied on the agricultural produce bought or sold in the notified market area and the recovery of such fees;
- (xxiii) exemption of persons or classes of persons from the obligation of obtaining licences under section 4;
- (xxiv) specifying the authority to which applications for obtaining licences shall be made;
- (xxv) the realisation or disposal of fees recoverable under the Act or under any rules or bye-laws made under this Act;
- (xxvi) the travelling expenses that may be paid to the members and employees of the Board and committees;
- (xxvii) the settlement of any question as to whether any person is producer or not;
- (xxviii) the grading and standardisation of the agricultural produce, the prevention of adulteration of the agricultural produce;
- (xxix) imposing on the persons holding licences under this Act, the duty of making returns to committees at regular intervals of transactions of sale, purchase, storage and processing done by them, and of producing accounts and records for inspection and furnishing information when called by an authority empowered and prescribing the form and mode of verification of and the particulars to be entered in such returns as well as the nature of such information;

- (xxx) the payment to the employees of the Board and market committee or leave allowance, gratuities or compassionate allowance and contribution to any provident fund which may be established for the benefit of such employees;
- (xxxi) the penalties to be imposed upon the employees of the Board and market committees, including the manner of imposing such penalties and the right of appeal against such penalties;
- (xxxii) nature and status of the servants of the Board and market committees;
- (xxxiii) the regulation of advances, if any, given to producers by brokers or dealers;
- (xxxiv) any other matter which is to be or may be prescribed.

(3) The rules made under this section shall, as soon as may be after they are made, be laid before the Legislative Assembly.

Bye-laws.

34. (1) Subject to any rules made by the State Government under section 33, the Board may, in respect of the notified market area, make bye-laws for:—

- (i) the regulation of business;
- (ii) the conditions of trading;
- (iii) the appointment and punishment of its employees and the employees of the market committees;
- (iv) the payment of salaries, gratuities and leave allowance to such employees; and
- (v) the delegation of powers, duties and functions to the sub-committee, if any, provided by section 17.

(2) No bye-law shall take effect until it has been published for information and notified in the Rajpatra, Himachal Pradesh.

Power of State Government to amend schedule.

35. The State Government may, by notification, add to the schedule to this Act any other item of agricultural produce or amend or omit any item of such produce specified therein.

Trial of offences.

36. (1) No offence made punishable by this Act or any rule or bye-law made thereunder shall be tried by a court inferior to that of a Magistrate of the first class.

(2) Prosecutions under this Act may be instituted by the Chairman, Secretary or, in their absence, by any other person duly authorised by a resolution passed by the Board or a committee in this behalf.

(3) All fines received from an offender shall be credited to the Government revenues and grant equivalent to such fines, shall be paid to the market committee.

Appeal.

37. (1) An appeal against the order passed under section 8 shall lie to the Board in the manner prescribed.

(2) Any person objecting to the order passed by the Board may appeal to the State Government whose decision in the matter shall be final.

Recovery of sums due to State Government from market committee.

38. (1) Every sum due from a committee to the State Government or the Board shall be recoverable as an arrear of land revenue.

(2) Every sum due to a committee from any person shall be recoverable as an arrear of land revenue.

Revision.

39. Notwithstanding anything contained in this Act, the State Government shall have the power of reversing or modifying any order of the Board or any of its officers passed or purporting to have been passed under this Act, if it considers it to be not in accordance with this Act or the rules or bye-laws made thereunder.

Power to write off irrecoverable fees etc.

40. Whenever it is found that any amount due to the Board or a committee is irrecoverable or should be remitted, or whenever any loss of the Board's or a committee's money or stores or other property occurs through the fraud or negligence of any person or for any other cause and such property or money is found to be irrecoverable, the facts shall be reported to the Board or committee, as the case may be, and the Board, with the approval of the Government, and the committee, with the approval of the Board, may order the amount or value of the property to be written off as loss irrecoverable or remitted, as the case may be, provided that in case of a committee, if in any case the amount due or the value of such property is in excess of two hundred rupees, such order shall not take effect without the approval of the State Government.

Power to compound offences.

41. (1) With the previous approval of the Chairman of the Board, a committee or, with the authorisation by a resolution of a committee, its Chairman, may accept from any person against whom a reasonable suspicion exists that he has committed an offence under this Act or any rule or bye-law made thereunder, a sum of money by way of composition for such offence.

(2) On the payment of such amount of money to the committee or to its Chairman, as the case may be, no further proceedings shall be taken against the suspected person, who, if in custody, shall be discharged.

Power of entry and search.

42. Subject to such restrictions as may be prescribed, the Secretary of the market committee or any other officer authorised by the committee in this behalf, may, for carrying out any of the duties imposed on the market committee by or under this Act, at all reasonable times, enter and search any place, premises or vehicles.

Liability of member or employee of committee or the Board.

43. (1) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to committee, if such loss, waste or misapplication is proved, to the satisfaction of the Board, to be the direct consequence of his neglect or misconduct in the performance of duties as a Chairman, Vice-Chairman, member or an employee of the committee and he may, after being given an opportunity by a written notice to show cause why he should not be required to make good the loss, be surcharged with the value of such property or the amount of such loss by the Board, and if the amount is not paid within one month from the expiry of the period of appeal prescribed by sub-section (3) shall be recoverable as arrears of land revenue:

Provided that no such person shall be called upon to show cause after the expiry of a period of one year from the occurrence of such loss, waste or misapplication or after the expiry of one year from the time of his ceasing to be a member or an employee.

(2) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the Board, if such loss, waste or misapplication is proved to the satisfaction of the State Government to be direct consequence of his neglect or misconduct in the performance of duties as a member or an employee of the Board, and he may, after being given an opportunity by a written notice to show cause why he should not be required to make good the loss, be surcharged with the value of such property

or the amount of such loss by the State Government and if the amount is not paid within one month from the expiry of the period of appeal prescribed by sub-section (3), it shall be recoverable as arrears of land revenue:

Provided that no such person shall be called upon to show cause after the expiry of a period of one year from the occurrence of such loss, waste or misapplication or after the expiry of one year from the time of his ceasing to be a member or an employee.

(3) The person against whom an order under sub-section (1) or sub-section (2) is made may, within one month of the service of such order, appeal to the State Government which shall have the power of confirming, modifying or disallowing the surcharge.

Repeal and savings.

44. The Punjab Agricultural Produce Markets Act, 1961, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966, and the Patiala Agricultural Produce Markets Act, 2004 BK., as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, are hereby repealed:

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Provided that such repeal shall not affect:—

- (a) the previous operation of any Act so repealed or anything duly done or suffered thereunder;
- (b) any right, privilege, obligation or liability acquired or incurred under any Act so repealed;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that anything done or any action taken under the Acts so repealed shall be deemed to have been done or taken under this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act:

Provided further that the Himachal Pradesh Marketing Board constituted under the Patiala Agricultural Produce Markets Act, 2004 BK; and functioning immediately before the commencement of this Act shall, till the Board is duly established and constituted under section 3, continue to function as if that Board had been constituted under the provisions of this Act, and all the employees in the service of the Himachal Pradesh Marketing Board immediately before the commencement of this Act, shall be deemed to be the employees of the said Board and their emoluments and other conditions of service shall not be varied to their disadvantage without the prior approval of the Government:

Provided further that every market committee constituted under the Patiala Agricultural Produce Markets Act, 2004 BK., and the Punjab Agricultural Produce Markets Act, 1961 and functioning before the commencement of this Act, shall continue to function as if that committee had been constituted under section 10 and their members including the Chairman and Vice-Chairman shall hold office till a new committee is set up under this Act or the expiry of two years, whichever is earlier.

THE SCHEDULE
[See section 2 (a) and section 35]

<i>Item</i>	<i>English Name</i>	<i>Hindi Name</i>
1. Cereals	1. Paddy	Dhan
	2. Rice	Chawal
	3. Wheat	Kanak
	4. Maize	Makki
	5. Barley	Jau
	6. Finger millet	Ragi
	7. Haraka	Kodra
	8. Common millet	Cheena
	9. Buck wheat	Kutu
	10. Italian millet	Kangoone
	11. Spiked millet	Bajra
2. Pulses	1. Pigeon pea	Arhar
	2. Lentil	Massur
	3. Black gram	Urd
	4. Green gram	Moong
	5. Peas dry	Matar khushk
	6. Horse gram	Kulthi
	7. Cow peas	Lobhia
	8. Pulses split	Dal Dali
	9. Gram	Chana
3. Oilseeds	1. Mustard	Sarson
	2. Indian Colza	Rai
	3. Indian rape	Toria
	4. Linseed	Alsi
	5. Groundnut shelled and unshelled.	Mungphali
	6. Sesamum	Til
	7. Rochet	Taramira
	8. Cotton seed	Banaula
4. Vegetable Oils	1. All vegetable oils	Sab khane-ke-tel
5. Fruits	1. Mango	Am
	2. Banana	Kela
	3. Lichies	Lichies
	4. Sweet orange	Malta
	5. Lemon	Neemboo
	6. Grapes	Angoor
	7. Pomegranate	Anar
	8. Pomegranate-seed	Anardana
	9. Apple	Saib
	10. Orange	Sangtra
	11. Peach	Aru
	12. Plum	Alucha
	13. Pears	Naspati
	14. Guava	Amrud
	15. Chilgoza	Niyoza
	16. Apricot	Khurmani
	17. Cherry	Cherry
	18. Strawberry	Rasbhari

<i>Item</i>	<i>English Name</i>	<i>Hindi Name</i>
	19. Persimon	Japani phal
	20. Watermelon	Tarbuz
	21. Walnut	Akhrot
6. Vegetables	1. Potatoes	Alu
	2. Onion dry	Piaz khushk
	3. Onion green	Piaz hara
	4. Brinjal	Baingan
	5. Bottle gourd	Ghia
	6. Lady's finger	Bhindi
	7. Red gourd	Halwa kadu
	8. Tomato	Tamator
	9. Cauliflower	Phulgobhi
	10. Cabbage	Bandh gobhi
	11. Knol Khol	Gandh gobhi
	12. Sponge gourd	Ghia-tori
	13. Green peas	Matar hari
	14. French bean	Pharas bean
	15. Cow peas	Lobhia hara
	16. Leaves of Indian colza, mustard and spanich etc.	Sag
	17. Carrot	Gajar
	18. Raddish	Muli
	19. Turnip	Salgam
	20. Tinda gourd	Tinda
	21. Sweet potato	Shakarkandi
	22.	Kathal
	23.	Zamikand
	24. Arum	Arbi
	25.	Kachalu
	26. Fenu greek	Methi hari
	27. Hillcapsicum	Mirch badi
	28. Bitter gourd	Karela
	29. Ash gourd	Petha
	30. Cucumber	Khira
7. Fibres	1. Cotton ginned and unginned.	Kapas aur rui
8. Animal Husbandry Products.	1. Poultry	—
	2. Eggs	Anda
	3. Cattle	—
	4. Sheep	Bhed
	5. Goat	Bakri
	6. Wool	Oon
	7. Butter	Makhan
	8. Ghee	Ghee
	9. Milk	Dudh
	10. Hides and skins (Processed and cured).	Khal
	11. Goat meat and Mutton.	Bakri aur Bhed-ka-gosht.

<i>Item</i>	<i>English Name</i>	<i>Hindi Name</i>
	12. Fish	Machhali
9. Condiments, spices and others.	1. Ginger	Adarak
	2. Garlic dry	Lahasn-khushk
	3. Chillies dry and green.	Mirch
	4. Turmeric	Haldi
	5. Coriander	Dhaniya khushk and hara.
10. Narcotics	1. Tobacco	Tambaku
11. Miscellaneous	1. Sugar cane	Ganna
	2. Gur and shakkar	Gur aur shakkar
	3.	Khandsari
	4. Oil cakes	Khali
	5. Bark of walnut	Dandassa
	6. —	Dhoop
	7. Edible mushroom	Guchi
	8. —	Banaphsa
	9. Bhabar grass	Bhabar ghas
	10. Rosin	Baroza

